

REMARKS

Claims 1, 3-4, and 6-18 are now pending in this application. Claims 1-6 are rejected. Claims 7-18 are withdrawn. Claims 1 and 6 were previously amended. Claims 2 and 5 were cancelled, and claim 6 is now also cancelled. Reconsideration is requested.

Claim 6 was rejected under 35 U.S.C. 102 as being anticipated by US 4,507,776 (Smith), and also under 35 U.S.C. 103 based on Salehi in view of Kahn. Claim 6 is now cancelled.

The only issue remaining in this application is the rejection based on papers authored by the inventors. Claims 1, 3, 4, and 6 were rejected under 35 U.S.C. 102(a) as being anticipated by L. Brzozowski, E.H. Sargent, PHOTONIC CRYSTALS FOR INTEGRATED OPTICAL COMPUTING, Proc. SPIE, vol. 4089, June 18, 2000, pp. 786-789. Erik V. Johnson is to be removed as an inventor due to cancellation of claims 2 and 5, and the PETITION TO CORRECT INVENTORSHIP being filed with this response. Consequently, the Brzozowski reference is no longer prior art under 35 U.S.C. 102(a). In particular, the "known or used by others" requirement is not met because the list of authors of the cited reference matches the list of inventors of this application. Withdrawal of the rejection is therefore requested.

The Office will kindly note that the correction of inventorship was requested in the previous response, and applicant's attorney indicated (via EFS) that the Office should charge any fees to the deposit account of applicant's attorney. The examiner appears to suggest that a separate petition is required. However, section 1.48 states:

(b) Nonprovisional application-fewer inventors due to amendment or cancellation of claims. If the correct inventors are named in a nonprovisional application, and the prosecution of the nonprovisional application results in the amendment or cancellation of claims so that fewer than all of the currently named inventors are the actual inventors of the invention being claimed in the nonprovisional application, **an amendment must be filed requesting deletion of the name or names**

of the person or persons who are not inventors of the invention being claimed. Amendment of the inventorship requires:

- (1) A request, signed by a party set forth in § 1.33(b), to correct the inventorship that identifies the named inventor or inventors being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application; and
- (2) The processing fee set forth in § 1.17(i). (emphasis added)

Nevertheless, a separate petition and fee are submitted with this response. Applicant therefore reiterates the request by way of the enclosed petition and fee.

Respectfully Submitted,

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Date

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